

§ 3.22

Collection Act of 1982 (31 U.S.C. 3701, 3711, 3716-3719); 4 CFR part 102 and subpart B of this part. Information on the person's or legal entity's responsibility for a commercial debt or delinquent consumer debt owed the United States will be disclosed to consumer or commercial credit reporting agencies.

[50 FR 7722, Feb. 26, 1985, as amended at 55 FR 38662, Sept. 20, 1990]

§ 3.22 Definitions.

In this subpart:

(a) *Debt management officer* means an agency employee responsible for collection by administrative offset of debts owed the United States.

(b) *Contracting officer* has the same meaning as in 41 U.S.C. 601.

(c) *Creditor agency* means a Federal agency to whom a debtor owes a monetary debt. It need not be the same agency that effects the offset.

(d) *Offsetting agency* means an agency that withholds from its payment to a debtor an amount owed by the debtor to a creditor agency, and assures that the funds are paid to the creditor agency to be applied to the debt.

(e) *Reviewing officer* means an agency employee responsible for conducting a hearing or providing documentary review on the existence of the debt and the propriety of administrative offset.

[50 FR 7722, Feb. 26, 1985, as amended at 55 FR 38662, Sept. 20, 1990]

§ 3.23 Collection by administrative offset.

(a) Whenever feasible, each agency of the Department of Agriculture must use, or request any other Federal agency to use, administrative offset in accordance with 31 U.S.C. 3716 and 4 CFR 102.3 to collect debts due the United States. The debt need not be reduced to judgment or be undisputed.

(b) The feasibility of collecting a debt by administrative offset will be determined on a case-by-case basis considering among other factors the following:

(1) Legal impediments to administrative offset, such as contract provisions, or degree of certainty as to the factual basis (other than the debt amount) of the Government's claim.

(2) Practicality, considering such questions as costs in time and money

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of administrative offset relative to the size of the debt.

(3) Whether offset would substantially interfere with or defeat the purposes of a program authorizing payments against which offset is contemplated, as where payment is an advance for future performance by the debtor of a service the Government desires.

(4) Whether the agency has substantiated the existence of the debt.

(c) The offset will be effected 31 days after the debtor receives a Notice of Intent to Collect by Administrative Offset, or when a stay of offset expires, unless the agency determines under § 3.26 that immediate action is necessary. If the debtor owes more than one debt, amounts recovered through administrative offset may be applied to them in any order, with attention to applicable statutes of limitation.

(d) These procedures will be used to collect any debt subject to 31 U.S.C. 3716, including contract debts, but not including intracontractual claims or intracontractual disputes. A contracting officer administering a claim under the Contract Disputes Act (CDA), 41 U.S.C. 601-613 must promptly refer the claim to the agency debt management officer for consideration of administrative offset apart from CDA proceedings.

(e) An agency debt management officer will determine the prima facie existence of the debt, the feasibility of administrative offset as a means of collection and what monies, if any, are payable or may become payable to the debtor. No agency employee may act as debt management officer for the consideration of collection by administrative offset in a matter for which the employee was a contracting officer.

(f) An agency reviewing officer will afford debtors review of the issue of administrative offset under these rules. No agency employee may act as a reviewing officer for the consideration of collection by administrative offset in a matter for which the employee was a contracting officer or a debt management officer.

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